



**UNITED STATES HOUSE OF REPRESENTATIVES  
OFFICE OF THE MAJORITY WHIP  
THE HONORABLE JAMES E. CLYBURN (SC-06)**

# **THE WHIP PACK**

**WEEK OF JULY 28, 2008**

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## **Bill Text and Background for the Week of July 28, 2008**

- H.R. 6599 – The Military Construction and Veterans Affairs FY09 Appropriations bill
- H.R. 1338 – Paycheck Fairness Act

**H.R. 6599 – THE MILITARY CONSTRUCTION AND VETERANS AFFAIRS FY09  
APPROPRIATIONS BILL** *(Rep. Edwards (TX) – Appropriations) (Subject to a Rule)*

**Bill Text:** [HTML Version](#), [PDF Version](#)  
[Bill Summary and Status](#)

**Rules Committee Meeting:** Tuesday, July 29, 2008, at 5:00 p.m. in H-313 the Capitol,  
[Special Announcement](#), [Meeting Time: 5:00pm Tuesday 7/29](#)

**Committee:** [Committee on Appropriations](#)

**Committee Staff Contact:** 5-2771

**LEGISLATION AT A GLANCE:**

**2009 MILITARY CONSTRUCTION AND VETERANS AFFAIRS**

The Military Construction and Veterans Affairs bill sends a clear message to America's service members and women, their families, and our veterans that we all appreciate and respect their service and sacrifice.

It builds upon the efforts of the last two years, as this Congress has made veterans its #1 priority. In 2007, Congress passed three separate appropriations bills that increased total funding for Veterans medical care by \$11.8 billion, so that they may receive the quality of care that they deserve. The emergency supplemental passed by the House last week continues those efforts with further increases for VA medical care and rewarding those who serve by expanding the GI bill to provide a full, four-year college benefit to veterans of the Iraq and Afghanistan wars.

This year's bill builds on those accomplishments. It starts by rejecting the President's proposal to cut the Department of Veterans Affairs construction by \$788 million, so that the Department has the resources it needs to address buildings that have fallen into disrepair.

It goes on to address the critical needs facing veterans medical care as soldiers return from Iraq and Afghanistan, building on the historic increases provided last year by:

- Increasing enrollment of Priority 8 veterans by 10 percent, ensuring that we keep our commitment to all veterans
- Providing veterans with advanced prosthetics
- Making substantial increases to mental health and substance abuse

For active duty service members and their families, the bill provides \$336 million above the President's request for quality of life projects that will directly improve living conditions and health care delivery.

The subcommittee took its oversight responsibility seriously, holding 19 hearings and one briefing to examine the President's request.

<b>Bill Total</b>	
<b>2008 Enacted:</b>	<b>\$63.9 billion</b>
<b>President's Request:</b>	<b>\$69.3 billion</b>
<b>Committee Mark:</b>	<b>\$72.7 billion</b>

**MILITARY CONSTRUCTION:** \$24.8 billion, \$400 million above the President's request and \$4.2 billion above 2008. The large increase is mostly due to the costs of implementing Base Realignment and Closure (BRAC) and plans to increase the size of the Army and Marine Corps.

**Quality of Life Initiative:** \$336 million, not requested by the President, to continue a quality of life initiative for troops and their families started in the 2008 supplemental including: nearly \$200 million for five new trainee and recruit housing facilities for the Army and Marine Corps to improve the barracks soldiers and marines live in when they train; and \$136 million for medical military construction and planning activities to upgrade substandard medical treatment facilities. For years, service members and their families have said that quality of life issues are their top priority, but they have been neglected by this Administration.

**2005 Base Realignment and Closure (BRAC) and Re-stationing:** \$9.1 billion, \$1.8 billion above 2008 and the same as the President's request, to implement base closures and realignments, and support the re-stationing of 70,000 troops and their families from overseas to the United States. The bill also funds planning for the eventual relocation of 8,000 marines and 9,000 dependents from Okinawa to Guam.

**Growing the Force:** \$5.6 billion in military construction and family housing, to support the Administration's program to increase the size of the Army by 65,000, the Marine Corps by 27,000, and the Guard and Reserve by 9,200 personnel.

**1990 BRAC:** \$473 million, \$178 million above 2008 and \$80 million above the President's request, to address an estimated \$3.5 billion backlog in needed environmental cleanup for bases that were closed during the four previous BRAC rounds as identified in most recent Defense Environmental Programs Annual Report.

**Military Housing:** \$3.2 billion, \$300 million above 2008, to further eliminate inadequate military housing.

**DEPARTMENT OF VETERANS AFFAIRS:** \$47.7 billion, \$4.6 billion above 2008 and \$2.9 billion over the President's request, for veterans' medical care, claims processors, and facility improvements.

**Veterans Health Administration:** \$40.8 billion, \$1.6 billion over the President's request and \$3.9 billion above 2008, for veterans' medical care. The Veterans Health Administration estimates they will treat more than 5.8 million patients in 2009 including more than 333,275 veterans of Iraq and Afghanistan (40,000 more than 2008).

- **Medical Services:** \$30.9 billion, \$1 billion above the President's request and \$2.8 billion above 2008, to improve access to medical services for all veterans.
  - **Increase Enrollment of Priority 8 Veterans:** \$400 million, not requested by the President, to start enrolling 10 percent of Priority 8 veterans. An estimated one-half of all uninsured veterans are Priority 8. Priority 8 veterans have not been enrolled since 2003 as part of an Administration effort to cut costs.
  - **Mental Health and Substance Abuse:** \$3.8 billion for specialty mental health care and \$584 million for substance abuse programs.

- **Fee-Based Care:** \$200 million, not requested by the President and not funded in 2008, for fee-based services to improve access to care where VHA services are not available.
- **Beneficiary Travel:** \$100 million above the President's request to increase the beneficiary travel reimbursement rate from 28.5 cents per mile to 41.5 cents per mile.
- **Assistance for Homeless Vets:** \$130 million for the homeless grants and per diem program, rejecting the President's \$8 million cut and the same as 2008, including \$32 million to hire additional personnel for the HUD-Veterans Affairs Supportive Housing Program.
- **New Generation Prosthetics:** \$1.6 billion, \$250 million above 2008 and \$116 million above the President's request, to provide veterans with appropriate prosthetic support given recent advances in technology.
- **Medical Support and Compliance:** \$4.4 billion, \$144 million above the President's request and \$338 million above 2008, to ensure the efficient operation of the Department's health care system and to support plans to increase enrollment of Priority 8 veterans by 10 percent.
- **Medical Facilities:** \$5 billion, \$368 million above the President's request and \$769 million above 2008, including a \$300 million increase for on-going maintenance and renovations of existing facilities to address identified shortfalls and to ensure the Department's facilities remain capable of delivering world-class medicine. The Department currently estimates a maintenance backlog of over \$5 billion. Includes \$68 million to support plans to increase enrollment of Priority 8 veterans by 10 percent.
- **Medical and Prosthetic Research:** \$500 million, rejecting the President's \$38 million cut and \$20 million above 2008, for research to help improve the quality of life for injured and aging veterans. Restores the cuts to trauma and mental health research – important to veterans of Iraq and Afghanistan.

**Major and Minor Construction:** \$1.9 billion, rejecting the President's \$788 million cut and \$215 million above 2008, to fulfill the Department's commitment to fund recommendations made by the Capitol Asset Realignment for Enhanced Services (CARES), which was established to look at facilities and determine their construction needs. The increase in minor construction will enable the Department to complete 145 projects in fiscal year 2009.

**Extended Care Facilities:** \$165 million, rejecting the President's \$80 million cut and the same as 2008, for grants to States for construction and renovation of extended care facilities. The funding level will meet identified life/safety needs and still provide funding for construction of additional new facilities.

**General Operating Expenses:** \$1.8 billion, \$102 million above the President's request and \$197 million above 2008, to enable the Department to hire roughly 2,100 additional claims processors to work down the backlog of benefits claims and to reduce the time to process new claims. The most recent VA quarterly status report estimates that nearly 396,000 claims are pending which are 20,000 more than their goal.

**Information Technology:** \$2.5 billion, \$232 million above 2008 and \$50 million above the President's request, for an emergency fund to address critical unplanned needs at medical facilities.

**Inspector General:** \$87.8 million, rejecting the President's \$4 million cut and \$7.3 million above 2008, to provide additional personnel for oversight activities, including inspections of community based outpatient clinics and VA Centers.

## **RELATED AGENCIES**

**American Battle Monuments Commission:** \$55.5 million, \$11 million above 2008 and \$8 million above the President's request. This funding provides for the care and operation of our military monuments and cemeteries around the world.

**United States Court of Appeals for Veterans Claims:** \$73.98 million, \$51 million above 2008 and \$50 million above the President's request, for the acquisition of a new facility for the Court.

**Cemeterial Expenses:** \$31.2 million, matching 2008 and the President's request, for Arlington cemetery.

**Armed Forces Retirement Home:** \$63 million from the Trust Fund, the same as the President's request, for operation and maintenance of the Armed Forces Retirement Home, including \$8 million for capital expenditures at the DC campus.

**House Report 110-775:**  
[HTML Version](#), [PDF Version](#)

### **Full Committee on Appropriations Mark-up:**

[Mark-up of H.R. 6599](#): The Military Construction and Veterans Affairs FY09 Appropriations bill, June 24, 2008

- [National Journal Report](#): House Committee Approves \$72.7B MilCon Spending Bill
- Opening Statement: [Chairman Edwards](#)

### **Summary of Committee Votes:**

- [Rep. Jerry Lewis, R-Calif. Mileage Reimbursement Amendment](#) — Provides an additional \$50 million to increase the mileage reimbursement rate for veterans. The increase is offset by a \$50 million decrease in funding for information technology systems at the Department of Veterans Affairs. **Adopted by Voice Vote.**
- [Rep. J. Kingston, R-Ga. Air Force Family Housing Privatization Amendment](#) — Adds language urging the Air Force to address concerns with the status of Military Housing Privatization Initiative projects at the following bases: Moody, Patrick, Hanscom and Little Rock Air Force bases. **Adopted by Voice Vote.**
- **Vote to Report:** Favorably Reported to the Full House, as Amended, by **Voice Vote.**

### **Subcommittee on Military Construction, Veterans Affairs, and Related Agencies Mark-up:**

[Subcommittee Mark-up](#): FY 2009 Military Construction, Veterans Affairs, & Related Agencies, June 12, 2008

- [National Journal Report](#): Appropriations Subcommittee Clears \$72.7 Billion VA Bill
- Opening Statement: [Chairman Edwards](#)

**Summary of Committee Vote:**

- **Vote to Report:** Favorably Reported to the Full Committee by **Voice Vote**.

**CRS Reports:**

[RL34558](#): Military Construction, Veterans Affairs, and Related Agencies: FY2009

Appropriations

[RL33985](#): Veterans' Benefits: Issues in the 110th Congress

[RL33993](#): Veterans' Health Care Issues

[RS22897](#): Veterans Affairs: Historical Budget Authority, Fiscal Years 1940 through 2007

[RL34038](#): Military Construction, Veterans Affairs, and Related Agencies: FY2008

Appropriations

[RL34063](#): Veterans' Medical Care: FY2008 Appropriations

[FY 2009 Status Table of Appropriations](#)

**GAO Reports:**

[GAO-08-502](#): Defense Infrastructure: Continued Management Attention Is Needed to Support Installation Facilities and Operations, April 24, 2008

[GAO-08-450SP](#): Principles of Federal Appropriations Law: Annual Update of the Third Edition, March 13, 2008

[GAO-08-375](#): Defense Infrastructure: Army and Marine Corps Grow the Force Construction Projects Generally Support the Initiative, March 6, 2008

**CBO Report:**

(TBA)

**Organization Statements:**

(TBA)

**Administration Position:**

(TBA)

**Fact Sheets & Talking Points:**

[Summary of H.R. 6599](#) — Committee on Appropriations

[FY2009 Subcommittee Allocations-302\(b\)s](#) — Committee on Appropriations

**Press Releases, News Articles & Related Information:**

(TBA)

**Other Resources:**

(TBA)

**H.R. 1338 – PAYCHECK FAIRNESS ACT** (Rep. DeLauro – Education and Labor) (Subject to a Rule)

**Bill Text:** [HTML Version](#), [PDF Version](#)

[Bill Summary and Status](#)

**Rules Committee Meeting:** [Special Announcement](#), [Amendment Deadline: 10:00am Wednesday 7/30](#), [Text of Bill as Ordered Reported](#)

**Committee:** [Committee on Education and Labor](#)

**Committee Staff Contact:** 5-3725

## **LEGISLATION AT A GLANCE:**

### **H.R. 1338: THE PAYCHECK FAIRNESS ACT**

The *Paycheck Fairness Act*, H.R. 1338 makes **modest common sense changes to strengthen** the Equal Pay Act (EPA) so that it will be a more effective tool in combating gender-based pay discrimination. H.R. 1338 will close numerous loopholes in the 45-year old law that has enabled employers to evade liability. **This important and historic legislation has 230 co-sponsors and will help end the discriminatory practice of paying men and women unequally for performing the same job.**

#### **Ensuring Equal Pay for Women in the Workplace**

Although the wage gap between men and women has narrowed since the passage of the landmark Equal Pay Act in 1963, gender-based wage discrimination remains a problem for women in the U.S. workforce. According to the U.S. Census Bureau, women only make 77 cents for every dollar earned by a man. Women of color are worse off. African American women make 68 percent of men's earnings while Hispanic women make only 56 percent of men's earnings. The Institute of Women's Policy Research found that this wage disparity will cost women anywhere from \$400,000 to \$2 million over a lifetime in lost wages.

#### **Summary of the Equal Pay Act**

The EPA provides for "equal pay for equal work," and makes it unlawful for an employer to pay **unequal wages** to men and women who have **substantially similar jobs** that are performed under similar working conditions within the **same physical location** of business ('establishment'). Employers can justify unequal pay if it is based on: (1) seniority; (2) merit; (3) quality or quantity of production; or (4) "any factor other than sex." Historically, courts have interpreted the "any factor other than sex" criteria so broadly that it embraces an almost limitless number of factors, so long as they do not involve sex. The reason **does not** even have to be related to the job in question.

#### **Summary of H.R. 1338, the Paycheck Fairness Act:**

- **Clarifies the 'any factor other than sex' defense** so that an employer trying to justify paying a man more than a woman for the same job must show that the disparity is not sex-based; is job related and necessary for the business.
- **Prohibits employers from retaliating** against employees who discuss or disclose salary information with their co-workers. However, employees such as HR personnel who have access to payroll information as part of their job would not be protected if they disclose the salaries of other workers.
- **Strengthens the remedies** available to include punitive and compensatory damages. Under the EPA currently, plaintiffs can only recover back pay and in some cases double back pay. The damages would not be capped.

- Requires the Department of Labor to **improve outreach and training efforts** to work with employers in order to eliminate pay disparities.
- **Enhances the collection of information on women and men's wages** in order to more fully explore the reasons for gender-based wage gap and to assist employers in their efforts to rectify pay disparities.
- Creates a new grant program to **help strengthen the negotiation skills** of girls and women.

#### **House Report 110-:**

HTML Version, PDF Version

#### **Full Committee on Education and Labor Mark-up:**

[Mark-up of H.R. 1338](#): the "Paycheck Fairness Act", July 24, 2008

- [National Journal Report](#): Labor Panel Votes To Bolster Salary Discrimination Penalties
- Opening Statement: [Chairman George Miller](#)

#### **Summary of Committee Votes:**

- [Rep. McMorris Rodgers, R-Wash. Comp Time Amendment to the Substitute Amendment](#) — Would have allowed employees to choose to take extra time off when they work extra hours instead of being paid overtime. **Ruled Not Germane.**
- [Rep. T. Price, R-Ga. Impact Study Amendment to the Substitute Amendment](#) — Would have required a study of the impact of the measure on the ability of employers to hire and recruit workers. **Rejected 17-26: R 17-0; D 0-26; I 0-0.**
- [Rep. T. Price, R-Ga. Attorney Fees Amendment to the Substitute Amendment](#) — Would have capped lawyer fees for lawsuits resulting from the bill at \$2,000 an hour. **Rejected 16-25: R 16-0; D 0-25; I 0-0.**
- [Rep. McKeon, R-Calif. Gas Prices Amendment to the Substitute Amendment](#) — Would have required a study of the impact of gas price increases on working women and add sense-of-Congress language that the government should do all it can to lower prices, including drilling for oil in the Arctic National Wildlife Refuge. **Ruled Not Germane.**
  - [Rep. McKeon, R-Calif. Appeal Ruling of the Chair](#) — Appealed the ruling of the chair on the sustained point of order raised on the McKeon gas prices amendment. **Rejected 16-25: R 16-0; D 0-25; I 0-0.**

- Chairman George Miller, D-Calif. Substitute Amendment ([Amendment Text](#)) — Requires that non-gender reasons for differences in wages have a business justification. To successfully raise that defense, an employer must demonstrate that the disparity is based on a bona fide factor other than sex, such as education, training, or experience, that is not based upon or derived from a sex-based differential and related to the position in question and is consistent with business necessity. The original bill required that the employer's affirmative defense be job-related and further a legitimate business purpose. The substitute amendment added "not based upon or derived from a sex-based differential" to deal with those cases where a woman, due to sex discrimination, was paid less in a prior position, and her lower pay in the prior position is used as the excuse for the lower pay in her current position. The substitute changed "furthers a legitimate business purpose" in the original bill to, "is consistent with business necessity" and broadened the situations where a female employee could look to find a comparable salary and job as a basis of a discrimination case. Current law forbids unequal pay within the same establishment, which many courts have interpreted as meaning within the same physical location. Under the substitute amendment, employees are considered to work in the same establishment if the employees work for the same employer at workplaces located in the same county or similar political subdivision of a state. The amendment prohibits employers from retaliating against employees who share salary information with their co-workers, with some exemptions and establishes that compensatory and punitive damages are available in private Equal Pay Act suits. It provides for compensatory and punitive damages and class actions in cases (for minimum wages and unpaid overtime compensation) brought by the secretary of Labor on behalf of an employee. The amendment authorizes the secretary of Labor to establish and carry out a grant program to provide negotiation skills training programs for girls and women. The amendment also requires, within 18 months of enactment, a survey of pay data already available, and based on the results of the survey, ask the government to issue new regulations to provide for the collection of pay information from employers identified by sex, race and national origin of employees. The amendment authorizes \$15 million for the new programs and provisions in the measure. **Adopted by Voice Vote.**
- **Vote to Report:** Favorably Reported to the Full House, as Amended, by a Roll Call Vote of **26-17: R 0-17; D 26-0; I 0-0** ([Roll Call 4](#)).

**CRS Reports:**

[RL31867](#): Pay Equity Legislation in the 110th Congress

**GAO Reports:**

(TBA)

**CBO Report:**

[Cost Estimate](#): Ordered Reported by the Committee on Education and Labor

**Committee on Education and Labor Hearings:**

["Strengthening the Middle Class: Ensuring Equal Pay for Women"»](#)

April 24, 2007 Hearing — Full Committee on Education and Labor

- Opening Statement: [Chairman Miller](#)
- [Archived Webcast](#)

**Witness Testimony:**

- [Rep. Rosa DeLauro](#), Third District of Connecticut
- Rep. Eleanor Holmes Norton, (No Written Testimony Available), Washington D.C.
- [Catherine Hill](#), Research Director, American Association of University Women
- [Heather Boushey](#), Senior Economist, Center for Economic and Policy Research
- [Dedra Farmer](#), Plaintiff in the Wal-Mart Sex-Discrimination Class Action Suit
- [Diana Furchtgott-Roth](#), Director, Center for Employment Policy, Hudson Institute

**"The Paycheck Fairness Act (H.R. 1338)" »**

July 11, 2007 Hearing — Subcommittee on Workforce Protections

- Opening Statement: [Chairwoman Woolsey](#)
- [Archived Webcast](#)

**Witness Testimony:**

- [Dr. Evelyn Murphy](#), President, WAGE Project, Inc.
- [Joseph Sellers](#), Partner, Cohen, Milstein, Hausfeld & Toll, PLLC
- [Marcia Greenberger](#), Co-President, National Women's Law Center
- [Camille A. Olson](#), Partner, Seyfarth Shaw, LLP

**Organization Statements:**

[Support for H.R. 1338 »](#)

- [American Association of University Women](#)
- [Equal Rights Advocates](#)
- [National Committee on Pay Equity](#)
- [National Women's Law Center](#)
- [Wider Opportunities for Women](#)

**Administration Position:**

(TBA)

**Fact Sheets & Talking Points:**

[Paycheck Fairness Act Web Page »](#) — Committee on Education and Labor

[Fact Sheet on H.R. 1338](#) — Committee on Education and Labor

**Press Releases, News Articles & Related Information:**

[House Labor Committee Passes Bill to Help Close Gender Wage Gap](#), *Measure would strengthen the landmark Equal Pay Act*, July 24, 2008

[Pelosi Statement on Anniversary of Equal Pay Act](#), *Speaker Pelosi Press Release*, June 10, 2008

[Pelosi: 'Women Deserve Equal Pay For Equal Work'](#), *Speaker Pelosi Press Release*, April 22, 2008

[Organizations Call for Passage of DeLauro's Paycheck Fairness Act](#), *Rep. DeLauro Press Release*, July 24, 2008

[Committee Passage of Paycheck Fairness Act](#), *Rep. DeLauro Press Release*, July 24, 2008

**Other Resources:**

[Cosponsors of H.R. 1338](#)